

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

Victor Tagle,

Plaintiff

V.

State of Nevada, et al.,

## Defendants

Case No.: 2:18-cv-00778-JAD-PAL

## Order Dismissing Action

9 Pro se plaintiff Victor Tagle, Sr., brings this “tort action” for events that allegedly  
10 occurred during his incarceration with the Nevada Department of Corrections.<sup>1</sup> On June 1, 2018,  
11 I denied his application to proceed *in forma pauperis* because he has three strikes under 28  
12 U.S.C. § 1915(g) and failed to demonstrate that he was under imminent danger of serious  
13 physical injury.<sup>2</sup> I gave him until June 30, 2018, to pay the full \$400 filing fee.<sup>3</sup> I expressly  
14 warned him that his case would be dismissed if he failed to pay the filing fee by that deadline.<sup>4</sup>  
15 The deadline has passed, and Tagle has not paid the filing fee.

16 District courts have the inherent power to control their dockets and “[i]n the exercise of  
17 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.<sup>5</sup> A  
18 court may dismiss an action with prejudice based on a party’s failure to prosecute an action,  
19 failure to obey a court order, or failure to comply with local rules.<sup>6</sup> In determining whether to

<sup>1</sup> ECF No. 1-1 (tort action).

2 ECF No. 16.

3 *Id.*

4 *Id.*

<sup>5</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

<sup>26</sup> *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.

1 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with  
2 local rules, the court must consider several factors: (1) the public's interest in expeditious  
3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the  
4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
5 availability of less drastic alternatives.<sup>7</sup>

6 I find that the first two factors—the public's interest in expeditiously resolving the  
7 litigation and the court's interest in managing its docket—weigh in favor of dismissing this case.  
8 The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury  
9 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or  
10 prosecuting an action.<sup>8</sup> The fourth factor is greatly outweighed by the factors in favor of  
11 dismissal, and a court's warning to a party that his failure to obey the court's order will result in  
12 dismissal satisfies the consideration-of-alternatives requirement.<sup>9</sup> Tagle was warned that his  
13 case would be dismissed if he failed to pay the \$400 filing fee in full by June 30, 2018.<sup>10</sup> So,  
14 Tagle had adequate warning that his failure to pay the fee would result in this case's dismissal.

### 15 Conclusion

16 Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED** without  
17 prejudice based on Tagle's failure to pay the full filing fee in compliance with this court's June  
18 1, 2018, order.

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23 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
24 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

25 <sup>7</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
26 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

27 <sup>8</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

28 <sup>9</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

<sup>10</sup> ECF No. 3.

The **Clerk of Court** is directed to **ENTER JUDGMENT** accordingly and **CLOSE THIS CASE**.

Dated: July 9, 2018

Jennifer A. Dorsey  
U.S. District Judge Jennifer A. Dorsey